IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION

UNITED STATES OF AMERICA	:	
	:	**CRIM. NO. 3:16-CR-38 (CAR)**
v.	:	
	:	
JENNINGS SUMMEROUR, JR.	:	
	:	

Filed at 10:39A M
12-20-2016
DEPUTY CLERK, U.S. DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA

PLEA AGREEMENT

It is agreed by the United States of America, by and through its undersigned attorney, and JENNINGS SUMMEROUR, JR., hereinafter referred to as "Defendant," and Defendant's undersigned attorney, as follows:

(1)

Defendant acknowledges that Defendant has reviewed and discussed the Superseding Information in this matter with Defendant's attorney and Defendant's attorney has explained to Defendant the attorney's understanding of the Government's evidence.

(2)

Defendant understands that Defendant is not required to plead guilty, and that Defendant has the right to plead not guilty and to elect instead to be tried by jury. Defendant understands that at a jury trial, Defendant would enjoy a presumption of innocence, and that the United States would have the burden of proving Defendant's guilt beyond a reasonable doubt. Defendant understands that Defendant would be entitled to the services of a lawyer at all stages of such a trial. Defendant understands that Defendant would be entitled to confront and to cross-examine the United States' proof, and to present witnesses and evidence in Defendant's own behalf. Defendant understands that Defendant would have the right to testify in Defendant's own behalf, but that Defendant could not be compelled to do so. Defendant has discussed these rights with Defendant's attorney. Defendant is satisfied with the services of Defendant's lawyer. Defendant knowingly and voluntarily waives Defendant's right to plead not guilty and to proceed to trial.

The United States Attorney and Defendant understand and agree that the Court should consider its sentence in light of the advisory Federal Sentencing Guidelines, as explained in United States v. Booker, 543 U.S. 220 (2005). Defendant knowingly and voluntarily waives any further objections that Defendant may have based on Booker, Apprendi v. New Jersey, 530 U.S. 466 (2000), and their progeny. Defendant therefore agrees that at sentencing the Court may determine any pertinent fact by a preponderance of the evidence and the Court may consider any reliable information, including hearsay. Defendant expressly waives any claim of right to an indictment, trial by jury, and/or proof beyond a reasonable doubt on any factual determinations that pertain to sentencing in this case.

(3)

Defendant being fully cognizant of Defendant's rights, and in exchange for the considerations to be made by the United States as set forth in Paragraph (4) below, agrees pursuant to Rule 11(c), Federal Rules of Criminal Procedure, as follows:

(A) Defendant is guilty and will knowingly and voluntarily enter a plea of guilty to Count One of the Superseding Information, which charges Defendant with Use of Facilities in Interstate and Foreign Commerce to Transmit Information about a Minor, in violation of Title 18, United States Code, Section 2425.

(B) Defendant fully understands that Defendant's plea of guilty as set forth in Subparagraph (A), above, will subject Defendant to a term of imprisonment of not more than five (5) years, a $250,000.00 fine, or both, and at least three (3) years of supervised release. Defendant further acknowledges that the Court is required to impose a mandatory assessment of $100.00 (per count).

(C) Defendant acknowledges and understands that the Court is not bound by any estimate of the probable sentencing range that Defendant may have received from Defendant's counsel, the Government, or the Probation Office. Defendant further acknowledges and agrees that Defendant will not be allowed to withdraw Defendant's plea because Defendant has received an estimated guideline range from the Government, Defendant's counsel, or the Probation Office which is different from the guideline range computed by the Probation Office in the Presentence Report and found by the Court to be the correct guideline range.

(D) Defendant understands fully and has discussed with Defendant's attorney that the Court will not be able to determine the appropriate guideline sentence until after a pre-sentence investigative report has been completed. Defendant understands and has discussed with Defendant's attorney that Defendant will have the opportunity to review the pre-sentence investigative report and challenge any facts reported therein. Defendant understands and has discussed with Defendant's attorney that any objections or challenges by Defendant or Defendant's attorney to the Pre-Sentence Report or the Court's rulings thereon will not be grounds for withdrawal of the plea of guilty.

(E) Defendant understands and has discussed with Defendant's attorney that after the Court determines the applicable guideline range in this case, the Court has the authority under certain circumstances to impose a sentence that is more severe or less severe than the sentence called for by the guidelines.

(F) Defendant agrees to provide a check for the mandatory assessment at the time of sentencing.

(G) Defendant understands that ordinarily 18 U.S.C. § 3742, will in certain cases allow for a direct appeal after sentencing followed by the Court of Appeals' limited review of a defendant's sentence. But once this agreement is accepted and sentence is imposed by the District Court, Defendant by this agreement forever waives any right to an appeal or other collateral review of Defendant's sentence in any court, except for any claim of ineffective assistance of counsel. However, in the event that the District Court imposes a sentence that exceeds the advisory guideline range, then Defendant shall retain only the right to pursue a timely appeal directly to the Court of Appeals after the District Court imposes its sentence. In the event that Defendant retains the right to a direct appeal, that right is limited to appealing sentencing issues only.

Defendant and the United States Attorney agree that nothing in this plea agreement shall affect the Government's right or obligation to appeal as set forth in 18 U.S.C. § 3742(b). If, however, the United States Attorney appeals Defendant's sentence pursuant to this statute, Defendant is released from Defendant's waiver of Defendant's right to appeal altogether.

(H) Defendant agrees to provide complete, candid, and truthful statements to law enforcement officers regarding Defendant's involvement and the involvement of all others involved in the charges alleged in the present Superseding Information as well as any and all criminal violations about which Defendant has knowledge or information and that such information provided will be pursuant to and covered by this agreement. Defendant further agrees to provide complete, candid, and truthful testimony regarding such matters in any proceeding. Defendant understands that this agreement does not require Defendant to implicate any particular individual or individuals or to "make a case," rather it requires Defendant to be truthful and to testify truthfully whenever called upon.

(I) Defendant and the Government stipulate and agree that there was no detected or identified biological evidence obtained during the investigation and prosecution of the matter which is subject to DNA testing. Defendant further agrees that all evidence obtained in this investigation and prosecution may be destroyed or returned to its rightful owner.

(J) Defendant recognizes that, for a defendant who is not a United States citizen, there are a broad range of crimes which are removable offenses, including the offense to which Defendant is pleading guilty. Defendant further recognizes that if convicted of the present crime, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

(K) Defendant understands that by pleading guilty, Defendant will be required to register as a sex offender upon Defendant's release from prison as a condition of supervised release pursuant to 18 U.S.C. §3583(d). Defendant also understands that independent of supervised release, Defendant will be subject to federal and state sex offender registration requirements, and that those requirements may apply throughout Defendant's life. Defendant understands that Defendant shall keep Defendant's registration current, shall notify the state sex offender registration agency or agencies of any changes to Defendant's name, place of residence, employment, or student status, or other relevant information. Defendant shall comply with requirements to periodically verify in person his sex offender registration information. Defendant understands that Defendant will be subject to possible federal and state penalties for failure to comply with any such sex offender registration requirements. If Defendant resides in Georgia following release from prison, Defendant will be subject to the registration requirements of O.C.G.A. § 42-1-12, *et seq.*, or if in another state to any reporting or registration requirements in that state. Defendant further understands that, under 18 U.S.C. § 4042(c), notice will be provided

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to certain law enforcement agencies upon Defendant's release from confinement following conviction.

As a condition of supervised release, Defendant shall initially register with the state sex offender registration in Georgia, and shall also register with the state sex offender registration agency in any state where Defendant resides, is employed, works, or is a student, as directed by the Probation Officer. Defendant shall comply with all requirements of federal and state sex offender registration laws, including the requirement to update Defendant's registration information. Defendant shall provide proof of registration to the Probation Officer within 72 hours of release from imprisonment.

(4)

In exchange for the consideration set forth in Paragraph (3) above, the United States Attorney for the Middle District of Georgia agrees as follows:

(A) That he will accept the plea of guilty by Defendant as provided in Paragraph (3)(A), above, in full satisfaction of all possible federal criminal charges, known to the United States Attorney at the time of Defendant's guilty plea, which might have been brought solely in this district against Defendant.

(B) That he further agrees, if Defendant cooperates truthfully and completely with the Government, including being debriefed and providing truthful testimony, at any proceeding resulting from or related to Defendant's cooperation, to make the extent of Defendant's cooperation known to the sentencing court. If Defendant is not completely truthful and candid in Defendant's cooperation with the Government, Defendant may be subject to prosecution for perjury, false statements, obstruction of justice, and/or any other applicable charge. If the cooperation is completed prior to sentencing, the Government agrees to consider whether such cooperation qualifies as "substantial assistance" pursuant to 18 U.S.C. § 3553(e) and/or Section 5K1.1 of the Sentencing Guidelines warranting the filing of a motion at the time of sentencing recommending a downward departure from the applicable guideline range. If the cooperation is completed subsequent to sentencing, the Government agrees to consider whether such cooperation qualifies as "substantial assistance" pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure warranting the filing of a motion for reduction of sentence within one year of the imposition of sentence. In either case, Defendant understands that the determination as to whether Defendant has provided "substantial assistance" rests solely with the Government. Any good faith efforts on the part of Defendant that do not substantially assist in the investigation or prosecution of another person who has committed a crime will not result in either a motion for downward departure or a Rule 35 motion. In addition, should Defendant fail to cooperate truthfully and completely with the Government, or if Defendant engages in any additional criminal conduct, Defendant shall not be entitled to consideration pursuant to this paragraph.

(C) Pursuant to Section 1B1.8 of the United States Sentencing Guidelines, the Government agrees that any self-incriminating information which was previously unknown to the Government and is provided to the Government by Defendant in connection with Defendant's cooperation and as a result of Defendant's plea agreement to cooperate will not be used in determining the applicable guideline range. Further, the Government agrees not to bring additional charges against Defendant, with the exception of charges resulting from or related to violent criminal activity, as defined in 18 U.S.C. § 924(e)(2)(B), based on any information provided by Defendant in connection with Defendant's cooperation, which information was not known to the Government prior to said cooperation. This does not restrict the Government's use of information previously known or independently obtained for such purposes.

(D) If Defendant affirmatively manifests an acceptance of responsibility as contemplated by the Federal Sentencing Guidelines, the United States Attorney will recommend to the Court that Defendant receive an appropriate downward departure for such acceptance. It is entirely within the Court's discretion whether or not Defendant would be entitled to any reduction based upon an acceptance of responsibility. The United States expressly reserves its right to furnish to the Court information, if any, showing that Defendant has not accepted responsibility, including, but not limited to, denying Defendant's involvement, giving conflicting statements as to Defendant's involvement, or engaging in additional criminal conduct including personal use of a controlled substance.

(5)

Nothing herein limits the sentencing discretion of the Court.

(6)

This agreement constitutes the entire agreement between Defendant and the United States, and no other promises or inducements have been made, directly or indirectly, by any agent of the United States, including any Assistant United States Attorney, concerning any plea to be entered in this case. In addition, Defendant states that no person has, directly or indirectly, threatened or coerced Defendant to do or refrain from doing anything in connection with any aspect of this case, including entering a plea of guilty.

(7)

As an aid to this Court, the United States Attorney and Defendant, by and through Defendant's counsel, enter into the following Stipulation of Fact. This stipulation is entered into in good faith with all parties understanding that the stipulation is not binding on the Court. Under

U.S.S.G. Policy Statement Section 6B1.4(d), this Court may accept this stipulation as written or in its discretion with the aid of the Pre-Sentence Report determine the facts relevant to sentencing.

Subject to the above paragraph, the United States Attorney and Defendant stipulate and agree that the Government could prove the following beyond a reasonable doubt:

On October 14th and 15th of 2016, the Child Exploitation and Computer Crimes Unit of the Georgia Bureau of Investigation (GBI), and the Georgia Internet Crimes Against Children Task Force conducted an undercover operation centered in Athens, Georgia which targeted online child predators who were willing to pay to have sex with a child.

As part of the undercover operation, the GBI posted ads on Backpage.com, which is a website frequently used for soliciting prostitution. The Backpage.com ad placed on October 14th was entitled, "Petite BAD girl Let me be your Dirty Little Secret!" The ad had a text section which stated:

> Hello gentlemen! The name's Missy. I'm new in town with some in call specials!! don't let my petite and sweet looks fool u—i've got skills that will leave u speechless don't miss a chance to meet a girl who loves to please and be pleased

The ad also contained numerous pictures of a young girl posing in a hotel room. The individual posing in the ads as a child was, in fact, a petite and youthful-looking undercover officer (UC). As with all Backpage.com ads, the ad listed the poster's age, which here was "99." In the training and experience of law enforcement, a posting age of "99" is code for the fact that a child is being advertised for prostitution.

After reviewing the undercover ad placed on Back Page on October 14, 2016, Jennings Summerour, Jr. made initial contact with the UC via text message at 3:38pm – approximately 11 minutes after the ad was posted. Initially, Summerour asked if the girl offered "out calls," which meant would she travel to his house. When told that she only offered "in calls," which meant that he would have to come to her, he responded: "You are Very Lovely. How about for $200?" Summerour then offered to pick the girl up and bring her back to his residence.

Later in their text message exchange, the UC informed Summerour that she was only 14 years old and asked if he was ok with her age. Summerour wrote back "Oh no. Sorry. You are a cop." He then asked: "Can I call you." Approximately two minutes later, not having received a response, Summerour wrote, "Talk to me Missy" and then called the UC.

A recorded phone call then took place between Summerour and the UC posing as a child. In that call, Summerour asked the UC if this was a trap and whether, when he pulled up, cops would be there. The UC answered that it was not a trap, and she did not want anyone finding out what she was doing. Summerour then asked where he could pick the girl up where it would be discrete and no one would see them. The UC stated that she could not drive anywhere yet because she was only 14, but she could walk somewhere to meet Summerour. He responded, "that would be good."

In the same conversation, the UC asked if Summerour would "have protection or anything," meaning a condom, and he responded, "Yes, I'll use some protection, yes I will, definitely. Most definitely." The UC then asked if Summerour wanted a half or a whole hour with her, and he responded, "I want the whole hour with you, oh my gosh....I just loved your pictures right off the bat. I saw the pictures, and I thought, she's just gorgeous. Just gorgeous." Summerour then asked the girl to send him an address so that he could come pick her up, and he asked her to wear something cute.

The UC subsequently texted Summerour an address where they could meet. Summerour again asked if she was with the police, and the UC said that she was not. Summerour drove to the address provided by the UC, where he was arrested for attempting to meet a child he had repeatedly been told was 14-years-old for sex. A search of Summerour's car after his arrest revealed a loaded .40 caliber handgun.

Summerour subsequently waived his Miranda rights and agreed to speak with the police without the presence of a lawyer. Summerour then gave a recorded confession wherein he admitted traveling to meet a girl whom he believed was 14-years-old to pay her to engage in sexual acts with him. Summerour said that what attracted him to "Missy" is that she was young. ~~Summerour also said that he works in the youth department of an Athens church and has previously worked as a youth leader in another church.~~ PDL JC

The parties stipulate and agree that the offense involved the use of a computer or an interactive computer service to persuade, induce, entice, coerce, or facilitate the travel of a minor to engage in prohibited sexual conduct, for the purposes of § 2G1.3(b)(3)(A).

Finally, the parties stipulate and agree that the Government intends to make a non-binding recommendation that a sentence of sixty (60) months is appropriate in this case, but Defendant can make any recommendation he wishes to the Court for what he believes is an appropriate sentence.

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(8)

ACCEPTANCE OF PLEA AGREEMENT

Defendant understands and has fully discussed with Defendant's attorney that this agreement shall become effective only upon the Court's acceptance of this agreement and the Court's acceptance of the plea of guilty by Defendant.

SO AGREED, this 20th day of December, 2016.

G.F. PETERMAN, III
UNITED STATES ATTORNEY

BY: ______________________________

PETER D. LEARY
ASSISTANT UNITED STATES ATTORNEY

I, JENNINGS SUMMEROUR, JR., have read this agreement and had this agreement read to me by my attorney, Jared S. Westbroek. I have discussed this agreement with my attorney, and I fully understand it and agree to its terms.

JENNINGS SUMMEROUR, JR.
DEFENDANT

I, Jared S. Westbroek, attorney for Defendant JENNINGS SUMMEROUR, JR., have explained the Superseding Information and the Government's evidence received through discovery and my investigation of the charge to Defendant. I believe Defendant understands the charge against Defendant and the evidence that would be presented against Defendant at a trial. I have read this agreement, have been given a copy of it for my file, and have explained it to Defendant. To the best of my knowledge and belief, Defendant understands this agreement.

JARED S. WESTBROEK
ATTORNEY FOR DEFENDANT